



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 30, 1995

Mr. Everette D. Jobe
General Counsel
Texas Department of Banking
2601 N. Lamar Boulevard
Austin, Texas 78705-4294

OR95-161

Dear Mr. Jobe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25426.

The Texas Department of Banking (the "department") received a request for information Pertaining to Chas. Schreiner Bank. You have submitted for our review documents numbered 000001 through 000246. You state that the documents numbered 000066-000071, 000141-000142, and 000156-000157 have been provided to the requestor. You contend, however, that the remaining documents are excepted from required public disclosure under sections 552.101 and 552.112 of the Government Code.

Section 552.112(a) of the Government Code excepts from required public disclosure

information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

Subsection (b) provides:

In this section, "securities" has the meaning assigned by The Securities Act [V.T.C.S. article 581-1].

This section protects specific examination, operating, or condition reports obtained by agencies in regulating or supervising financial institutions or securities, or information that indirectly reveals the contents of such reports. Open Records Decision

Nos. 261 (1980); 29 (1974). Such reports typically disclose the financial status and dealings of the institutions that file them. Section 552.112 does not protect general information about the overall condition of an industry if the information does not identify particular institutions under investigation or supervision. Open Records Decision No. 483 (1987). An entity must be a "financial institution" for its examination, operating, or condition reports to be excepted by section 552.112; it is not sufficient that the entity is regulated by an agency that regulates or supervises financial institutions. Open Records Decision No. 158 (1977). The attorney general has stated that the term "financial institution" means "any banking corporation or trust company, building and loan association, governmental agency, insurance company, or related corporation, partnership, foundation, or the other institutions engaged primarily in lending or investing funds." *Id.* at 5; *see also* Open Records Decision No. 392 (1983) at 3.

We have reviewed the documents submitted for our consideration. Most of the documents consist of examination reports and information that indirectly reveals the contents of such reports. We have marked a few documents that are not excepted from disclosure under section 552.112.¹ The department may withhold the remaining documents under section 552.112.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

¹Similarly, the marked documents are not confidential under article 342-210 of the Banking Code because they are not "relative to the financial condition of any bank," nor are the documents protected from disclosure by common-law privacy.

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

LRD/LBC/rho

Ref.: ID# 25426

Enclosures: Marked documents

cc: Mr. Steven H. Thomas
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(w/o enclosures)